

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:17-cv-63-FDW**

JIMMY ALLEN ROBERTS,

Plaintiff,

vs.

FRANK L. PERRY, et al.,

Defendants.

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ORDER

THIS MATTER is before the Court on *pro se* Plaintiff's Notice, (Doc. No. 59), and the Court's June 9, 2020 Order, (Doc. No. 60). Also pending is Defendants' Motion for Summary Judgment, (Doc. No. 45).

This is a civil rights action that the *pro se* incarcerated Plaintiff filed pursuant to 42 U.S.C. § 1983. The Amended Complaint passed initial review against several Defendants who filed a Motion for Summary Judgment, (Doc. No. 45). Rather than filing a response, Plaintiff filed a Notice, (Doc. No. 59), expressing his disagreement with the Court's Order denying his request for the appointment of counsel. See (Doc. No. 58). Plaintiff contends that he is unable to proceed without counsel and expresses his unwillingness to continue litigating this case. (Doc. No. 59 at 4).

On June 9, 2020, the Court issued an Order notifying the parties of its intent to construe Plaintiff's Notice as a motion to voluntarily dismiss this action without prejudice pursuant to Rule 41(a) of the Federal Rules of Civil Procedure. (Doc. No. 60). Neither party has filed a response and the time to do so has expired. (Id.).


Plaintiff's Notice is therefore construed as a Motion for Voluntary Dismissal pursuant to

Rule 41(a), and will be granted. This case will be dismissed without prejudice and closed.

IT IS THEREFORE ORDERED that:

1. Plaintiff's Notice, (Doc. No. 59), is construed as a Motion for Voluntary Dismissal without prejudice pursuant to Rule 41(a) and is **GRANTED**.
2. Defendants' Motion for Summary Judgment, (Doc. No. 45), is **DENIED** as moot.
3. The Clerk is instructed to close this case.

Signed: July 1, 2020


Frank D. Whitney
United States District Judge

